

M e m o r a n d u m

To : Ms. Cynthia Bridges
Executive Director (MIC 73)

Date: July 16, 2014

From : Mr. Jeffrey L. McGuire, Deputy Director
Sales and Use Tax Department (MIC 43)



Subject : **Board Meeting August 5-7, 2014**
Item N: Administrative Agenda
Proposed Revision to Compliance Policy and
Procedures Manual Chapter 5, Returns

In accordance with the established procedures for audit and compliance manual revisions, I am submitting the proposed revision to Compliance Policy and Procedures Manual (CPPM) Chapter 5, *Returns*, sections 505.040 through 505.090.

The proposed revision, which incorporates current policies and procedures, has been reviewed and approved by SUTD management, provided to Board Members, and posted at <http://www.boe.ca.gov/sutax/pmr.htm> to solicit comments from interested parties. One comment was received from Board Member staff and the suggested edit was made to the first paragraph of section 505.045. No other comments were received from interested parties.

The revised section is attached for your reference. We request your approval to forward this item to the Board Proceedings Division for placement on the Administrative Agenda as a consent item at the August 2014 meeting.

If you have any questions, please let me know or contact Ms. Susanne Buehler at 324-1825.

JLM:rs
Attachment

Approved:

STATE BOARD OF EQUALIZATION

BOARD APPROVED



At the August 5, 2014 Board Meeting

Joann Richmond
Joann Richmond, Chief
Board Proceedings Division


Ms. Cynthia Bridges
Executive Director

cc: (all with attachment)

Mr. Wayne Mashihara (MIC 46)

Ms. Susanne Buchler (MIC 92)

Mr. Kevin Hanks (MIC 49)

ASSISTANCE PROVIDED TO TAXPAYERS

505.040

Taxpayers can receive assistance with filing their returns by calling the Customer Service Center (CSC) at 1-800-400-7115, or by calling their local field office. Additionally, help is available in person at all in-state district offices and branches.

When assisting taxpayers with their returns, it is particularly important for staff to inform taxpayers about the proper method of completing schedules for reporting local and district taxes. The BOE has a legal obligation to collect, allocate and disburse taxes on behalf of counties, cities, and special tax districts. If taxpayers fail to correctly prepare the subsidiary schedules, the BOE will be unable to properly allocate local and district taxes.

Occasionally, taxpayers may contact BOE when they realize an error has been made on a tax return filed online. A return filed online may be cancelled and a new return filed if CSC is contacted on the same day the return is filed. Otherwise, the return cannot be cancelled and the taxpayer must file an amended return. For information regarding amended returns, see CPPM section 505.120.

PREPARATION OF TAX RETURNS BY BOE EMPLOYEES

505.045

BOE staff should always assist taxpayers who are seeking guidance on how to file their returns. However, BOE staff may only help in physically preparing a taxpayer's return in exceptional cases where the taxpayer has difficulty in reading or writing English, or is physically incapacitated and unable to file without assistance. The taxpayer must provide the records necessary to prepare the return and request that the return be prepared by staff. In addition, if the physically incapacitated taxpayer is able to produce records but is unable to request help in person, return assistance may be provided over the phone without the taxpayer being present. Whenever staff provides this kind of assistance, comments which include the return period being filed must be entered in IRIS under the TAR AI screen.

In such cases, staff will use the Express Login method on the BOE website to file the return. In the "Preparer Name" field, the employee will enter his or her own name and enter "BOE Employee" in the "Preparer Title" field. Staff will not make the payment electronically for the taxpayer, but will select the "paper check" option for payment. Staff will print the confirmation page for the taxpayer and add the notation "PREPARED FROM UNVERIFIED DATA FURNISHED BY THE TAXPAYER," accompanied by the employee's signature. The confirmation page and payment voucher, if applicable, will be given to the taxpayer.

If the account is ineligible or exempt from online filing, staff will assist the taxpayer with the paper return and include the same notation as above, along with the employee's signature.

Under no circumstances should BOE staff log into a taxpayer's account on the BOE online system or their own BOE computer to file a tax return. To ensure staff is following this procedure, management will periodically monitor for returns filed from BOE staff computers. Similarly, in no case should a BOE employee sign a paper

return for the taxpayer or prepare a return without the taxpayer being present.

RETURN FORMS REQUIRING ADDRESS CHANGES **505.040**

~~The United States Postal Service does not forward third class mail if the mailing address is incorrect. Consequently, return forms that are returned to the Board as undeliverable are directed to the district offices or initiating headquarters section so that the condition causing their return may be corrected. Priority should be given to remailing the returns by first class mail when a forwarding address is known. Special first class envelopes are available from the Reproduction and Supply Section in headquarters (envelope #E-14-A). Any corrections to the registration record should be made on-line.~~

~~When returns are filed with headquarters, headquarters will provide information that must be changed in the appropriate district and will refer copies of the filed returns to the district. The Account Analysis and Control Section and the Information Center are authorized to make mailing address, DBA and minor business address (e.g., a suite number) changes. All other changes must be made by the district office or initiating headquarters section.~~

RETURN FORMS FURNISHED BY DISTRICT OFFICES **505.050**

Most taxpayers file online via the BOE website and do not need return forms. However, taxpayers who have received an exemption (see CPPM section 505.035) or are ineligible to file electronically (see CPPM section 505.032) may need a return form provided. In addition, if the online system is not available and taxpayers request the return form, it should be provided.

District offices should furnish return forms to:

~~• Any person required to file who does not receive a return and who contacts a district office. The district District staff should ensure that the following information is entered on the return form provided to the taxpayer: the taxpayer's name, address, area code, account number and the filing period covered by the return are entered on the return provided to the taxpayer. Generally, This information will be entered automatically if the return is generated from the return print menu in IRIS (TAR RT). However, if a return form must be is downloaded from another source the BOE website, staff must enter this information must be entered manually.~~

If a taxpayer registers for a permit, license or account near the due date of a return and is assisted by BOE staff, Taxpayers whose new applications and change of mailing address forms are processed after certain dates for each reporting period, the taxpayer should be advised of the due date of the return and how to file. If the taxpayer is not eligible to file online, the return form(s) should be provided. District staff should also must furnish the appropriate tax return form and must note on the application enter comments in IRIS regarding which returns were furnished. See the Calendar of Sales Tax Functions or Special Tax Calendars for applicable dates. Copies of the Calendars are available from compliance supervisor on eBOE under the "Sales Tax" or "Special Tax" tabs.

When paper returns are provided to taxpayers who are ineligible or have received an exemption from online filing, it is important that the proper form(s), supplemental

schedules, and return instructions also be provided. When returns are printed in IRIS, the required schedules will generally be printed automatically. It is important that staff provide the proper return form to taxpayers, together with any supplemental schedules as required.

Instructions are available on the BOE website. For Sales and Use Tax returns, the BOE-401-INST, *Instructions for Completing the BOE-401-A, State, Local, and District Sales and Use Tax Return*, should be provided. Instructions for subsidiary schedules and for some Property and Special Taxes returns can be found on the last page of the return or schedule. Subsidiary schedules may include:

- BOE-531-A2, *Schedule A — Computation Schedule for District Tax.*
- BOE-531, *Schedule B — Detailed Allocation by County of 1% Uniform Local Sales and Use Tax.*
- BOE-530, *Schedule C — Detailed Allocation by Suboutlet of Uniform Local Sales and Use Tax.*
- BOE-530-B, *Local Tax Allocation for Temporary Sales Locations and Certain Auctioneers.*
- BOE-531-F, *Schedule F — Detailed Allocation by City of 1% Uniform Local Sales and Use Tax.*

~~The Print Sub-system Menu of IRIS's on-line registration program allows the printing of various return forms and completion instructions for new accounts. If time does not permit mailing a return to the taxpayer for a timely filing. However, the taxpayers who need return forms should generally be instructed to obtain a copy of the return form from the Board's Website BOE website or if unable to obtain online, to file a return in letter form. (See CPPM 505.090.)~~ The taxpayer is under an obligation to report and pay the amount of tax due before it becomes delinquent, but ~~the Board~~ BOE is under no legal obligation to furnish returns. Late filing and payment of a return because of failure to receive a return form is not normally considered a cause for the abatement of penalty charges.

PREPAYMENT FORMS FURNISHED BY DISTRICT OFFICES

505.060

~~Except for taxpayers reporting by EFT, any person required to make a monthly prepayment of his/her quarterly sales and use tax. Prepayment forms should only be provided to taxpayers who are on a quarterly prepayment filing basis and who have received an exemption from online filing. If a taxpayer who does not receive a prepayment form and who contacts requests one from a district office, staff should be furnished with prepayment form provide the BOE-1150 form. For Sales and Use Tax accounts, Second quarter prepayments are reported on Form a BOE-1150-B, but all other quarterly prepayments are reported on a BOE-1150. These forms are available from the system or as paper copies on the prepayment print menu in IRIS (TAR PF). The forms generated from IRIS will automatically have the taxpayer's name, address, area code, account number, and the month for which the prepayment is being made should be entered on the form before it is given to the taxpayer. As noted in CPPM 505.050, forms generated from IRIS will automatically provide this information. Staff must manually add the information to prepayment forms generated from other sources.~~

~~Prepayment forms should only be furnished to persons who have been notified by the Board that they are on prepayment status.~~

INSTRUCTIONS TO TAXPAYERS

505.070

~~Clear instructions regarding the preparation and filing of returns should be given to all persons at the time they file applications. Taxpayers should understand clearly when returns are due and also the consequences of failure to file a timely return and remit payment timely. Proper instruction of the taxpayer is the responsibility of the staff person accepting the application.~~

~~Instructions should cover not only how to fill out the front of the Form BOE 401 A, but also any subsidiary schedules required of the taxpayer. Subsidiary schedules may include:~~

- ~~• Form BOE 401 A, Schedule A — Computation Schedule for District Tax.~~
- ~~• Form BOE 531, Schedule B — Detailed Allocation by County of 1% Uniform Local Sales and Use Tax.~~
- ~~• Form BOE 530, Schedule C — Detailed Allocation by Suboutlet of Uniform Local Sales and Use Tax.~~
- ~~• Form BOE 531 E, Schedule E — Detailed Allocation by County of 1% Uniform Local Use Tax.~~
- ~~• Form BOE 530 B, Local Tax Allocation for Temporary Sales Locations and Certain Auctioneers.~~
- ~~• Form BOE 531 F, Schedule F — Detailed Allocation by City of 1% Uniform Local Sales and Use Tax.~~
- ~~• Form BOE 531 T, Schedule T — Tax Adjustment Worksheet. (Used with Form BOE 401 A.)~~
- ~~• Form BOE 531 TE, Schedule TE — Tax Adjustment Worksheet. (Used with Form BOE 401 E.)~~
- ~~• Form BOE 531 X, Schedule X — Detailed Allocation by County of Sales Exempt from Local Tax.~~

~~It is particularly important to inform taxpayers about the proper method of completing schedules for reporting local and district taxes. The Board has a legal obligation to collect, allocate and disburse taxes on behalf of counties, cities, and special tax districts. If taxpayers fail to correctly prepare the subsidiary return, the Board will be unable to properly allocate local and district taxes. See Exhibit 5 for more information about local tax allocations.~~

~~An applicant for a permit who will be required to file yearly returns will be given a copy of Form BOE 400 Y, Important Reminder for Accounts Reporting on a Yearly Basis.~~

PREPARATION OF TAX RETURNS BY BOARD EMPLOYEES

505.080

~~As a general rule, a Board employee should not prepare the return for the taxpayer. In exceptional cases where the taxpayer has difficulty in writing English or is physically incapacitated and unable to write, and produces his/her records with the request that the return be prepared, an employee of the Board may do so. In such cases, the following notation should be made on the return: "PREPARED FROM UNVERIFIED DATA FURNISHED BY THE TAXPAYER," with the signature of the employee beneath~~

~~the notation.~~

~~In no case should an employee of the Board sign the return for the taxpayer or prepare a return outside the taxpayer's presence. If the taxpayer is illiterate and unable to sign his name, an employee may witness the taxpayer's mark.~~

RETURN FORMS REQUIRING ADDRESS CHANGES **505.070**

The United States Postal Service does not forward third class mail if the mailing address is incorrect. Consequently, forms that are mailed to taxpayers that are returned to the BOE as undeliverable are directed to the district offices or the initiating headquarters section so that the condition causing their return may be corrected. Priority should be given to re-mailing the returns by first class mail when a forwarding address is known. First class envelopes are available from the Supply Unit in Headquarters (envelope #E 14-AG). Any corrections to the registration record should be made in IRIS.

When returns are filed with Headquarters indicating a change of address, Headquarters will provide information and copies of the filed returns to the appropriate district of control. The Local Revenue and Allocation Unit and the Customer Service Center are authorized to make mailing address, DBA and minor business address (e.g., a suite number) changes. All other changes must be made by the district office or initiating Headquarters section.

WHAT CONSTITUTES A RETURN **505.090**

Electronic Returns

RTC section 6479.31, and the applicable Special Taxes and Fees law sections, provide that any return filed electronically in a form as required by the BOE shall be deemed to be a valid original document.~~A return will be deemed to have been filed when the taxpayer provides in writing all~~

Written Correspondence Accepted as a Return

Return forms are available on the BOE website and completed forms received in the mail will be accepted. Occasionally, however, a taxpayer will send a paper return that is not on a form provided by the BOE. In those cases, the return will be considered valid when the following information is included:

1. A request that the correspondence be accepted as a return or a statement, regardless of how brief, indicating that the taxpayer is attempting to file a return,~~and~~
2. The reporting period for which the correspondence (return) is filed, and
3. The amount of tax due or that no tax is due.

Even though the correspondence may only report the net tax figure, it may be accepted as a return if the information listed above is provided. When the taxpayer has shown due diligence in making every effort to submit what he or she feels is a return ~~or indicates that he or she did not receive a return form~~, the correspondence submitted should be accepted as a return.

If a taxpayer's check ~~indicates~~ shows the reporting period and the measure of the tax

being paid, it may be processed as a return. As a general rule, if tax due can be calculated from the information provided, the correspondence should be processed as a return. A transmittal letter, memorandum, or note accompanying a payment of tax generally does not qualify as a return if any of the items [listed](#) above are missing. For instance, a statement that a payment represents tax due for a particular reporting period is not sufficient because the taxpayer has not indicated that the correspondence represents a return. If the taxpayer is paying tax and intends to send the return separately, the tax payment is not accepted as a return. However, it is important to always consider the taxpayer's intent. Asking the question "Is the taxpayer attempting to file his or her tax return or just sending the tax payment for the period?" will help in determining how to process the correspondence and any payment.

| Any ~~sales and use~~ tax return form received in ~~h~~Headquarters or the field without tax information but with a tax payment should be processed as a return. The Return Analysis ~~Section—Unit, or appropriate Special Taxes and Fees section,~~ has responsibility to review these returns to determine if this is a recurring problem and if appropriate, bill a 10% penalty for not filing a timely return.